

No. 2510

IN THE  
**United States Circuit Court of Appeals**  
For the Ninth Circuit

SWAYNE & HOYT, INC. (a corporation),  
*Plaintiff in Error,*

vs.

GUSTAV BARSCH,  
*Defendant in Error.*

**SUPPLEMENT TO PETITION OF PLAINTIFF IN ERROR  
FOR A REHEARING.**

IRA A. CAMPBELL,  
SNOW & McCAMANT,  
*Attorneys for Plaintiff in Error  
and Petitioner.*

Filed this.....**Filed**.....day of September, 1915.

SEP 24 1915  
FRANK D. MONCKTON, Clerk.

By.....**F. D. Monckton,**.....Deputy Clerk.



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## SUPPLEMENT TO PETITION OF PLAINTIFF IN ERROR FOR A REHEARING.

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Since filing the petition for a rehearing in this case, our attention has been called to the report submitted by Representative Dupré, accompanying House Resolution No. 4545, in which the Committee on the Judiciary advised the passage of the Act of March 3, 1915.

This report shows conclusively that the third section of the Act of March 3, 1915 (that is to say, that part adding Section 274c to the Judicial Code), was intended solely to afford an opportunity to supply *deficiencies in pleadings*.

That portion of the report which refers to the third section of the bill reads as follows:

“The third section of the bill was drawn to meet a difficulty which sometimes arises in practice and has caused grievous injustice. The plaintiff brings his suit and fails to allege in his pleading all the necessary jurisdictional facts. It has been held that it is necessary that the jurisdiction of the court should appear on the face of the pleadings, and actions have been dismissed after testimony has been taken and hearing has been had because of the failure to insert the proper allegations of citizenship. Indeed there are instances in which the defendant has not made the objection until after judgment and has then sued out a writ of error and succeeded in reversing the judgment, solely because of the failure of the pleading filed by the plaintiff to make the proper allegations of citizenship.”

It is well settled that reports of House Committees may be looked at for the purpose of ascertaining the meaning of a statute.

*Church of Holy Trinity v. U. S.*, 143 U. S. 457, 464; 36 L. Ed. 226, 229;

*Binns v. U. S.*, 194 U. S. 486; 48 L. Ed. 1087;

*W. A. Gaines v. Turner-Looker Co.*, 204 Fed. 558.

We respectfully submit that a rehearing should be granted.

Dated, San Francisco,

September 27, 1915.

Respectfully submitted,

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SNOW & McCAMANT,

*Attorneys for Plaintiff in Error  
and Petitioner.*